

III. REMARKS

Claims 1-13 are pending in this application. By this amendment, claims 1-7 have been amended and claims 12 and 13 have been added. These amendments are being made to facilitate early allowance of the presently claimed subject matter. Applicant does not acquiesce in the correctness of the rejections and reserves the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicant reserves the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

Entry of this Amendment is proper under 37 C.F.R. 1.116(b) because the Amendment: (a) places the application in condition for allowance as discussed below; (b) does not raise any new issues requiring further search and/or consideration; and (c) places the application in better form for appeal. Accordingly, Applicant respectfully requests entry of this Amendment.

In the Office Action, claims 1-3 and 5-11 are rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Colby *et al.* (U.S. Patent No. 6,449,647 B1), hereafter "Colby." Claim 4 is rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Colby in view of Chapman (U.S. Patent No. 6,304,552 B1), hereafter "Chapman."

A. REJECTION OF CLAIMS 1-3 and 5-9 UNDER 35 U.S.C. §102(e)

With regard to the 35 U.S.C. §102(e) rejection over Colby, Applicant asserts that Colby does not teach each and every feature of the claimed invention. For example, with respect to independent claims 1, 8 and 10, Applicant respectfully submits that Colby fails to teach an IP

datagram comprising socks traffic on a socks server. Instead, Colby describes a network address translation (NAT) mechanism where a virtual IP address is mapped to a private IP address. Col. 2, lines 42-51. However, nowhere does Colby teach that the NAT mechanism works with Socks traffic or a socks server. In contrast, the claimed invention includes "...an IP datagram comprising socks traffic on a socks server." Claim 1. As such, the IP datagram of the claimed invention does not simply map a virtual IP address to a private IP address as does the NAT mechanism of Colby, but instead comprises socks traffic on a socks server. Thus, the IP datagram of the claimed invention is not equivalent to the NAT mechanism of Colby. Accordingly, Applicant requests withdrawal of the rejection.

With further respect to independent claims 1, 8 and 10, Applicant respectfully submits that Colby also fails to teach or suggest determining the one or a plurality of socks servers defined for the value of the Type of Service (TOS) field retrieved from the IP datagram, one or a plurality of Type of Service (TOS) values being defined for each socks server. Instead, Colby discloses a mechanism for selection of a best-fit server from among a plurality of servers based on the respective geographic locations of the clients and servers. Col. 3, lines 16-28. Nowhere does Colby teach determining a socks server based on the value of the TOS field. The claimed invention, in contrast, includes "...determining the one or a plurality of socks servers defined for the value of the Type of Service (TOS) field retrieved from the IP datagram, one or a plurality of Type of Service (TOS) values being defined for each socks server." Claim 1. As such, the determination of the one or a plurality of servers of the claimed invention is not merely based on the respective geographic locations of the clients and servers as in Colby, but instead is based on the one or a plurality of TOS values being defined for each socks server. For the above reasons,

the determination as included in the claimed invention is not equivalent to the selection of Colby. Accordingly, Applicant requests that the rejection of the Office be withdrawn.

With still further respect to independent claims 1, 8 and 10, Applicant respectfully submits that Colby also fails to teach or suggest determining the application level protocol of data transported in the IP datagram, the application level protocol being defined for each value of the Type of Service (TOS) field. Instead, Colby only teaches using the TOS field as a standard field in the IP header of datagrams to indicate a Quality of Service (QOS) for a particular IP flow. Col. 2, lines 23-28. However, nowhere does Colby teach determining the application level protocol of data transported in the IP datagram using the value of the TOS field. The claimed invention, in contrast, includes "...determining the application level protocol of data transported in the IP datagram, the application level protocol being defined for each value of the Type of Service (TOS) field." Claim 1. As such, the TOS field is not merely used as a standard field to indicate a Quality of Service as in Colby, but instead is used to determine the application level protocol of data transported in the IP datagram. For the above reasons, the TOS value as included in the claimed invention is not equivalent to the Quality of Service value in the TOS field of Colby. Accordingly, Applicant requests that the rejection of the Office be withdrawn.

With yet still further respect to independent claims, 1, 8 and 10, Applicant respectfully submits that Colby also fails to teach, *inter alia*, if more than one socks server is defined for the value of the Type of Service (TOS) field retrieved from the IP datagram, forwarding the IP datagram to a socks server selected according to one or a plurality of selection parameters, one selection parameter being the application level protocol previously determined. As stated above, Colby selects a best-fit server based on proximity preferences. Nowhere does Colby teach that if

more than one socks server is defined, selecting the socks server according selection parameters, including the application level protocol previously determined. In contrast, the claimed invention includes "...if more than one socks server is defined for the value of the Type of Service (TOS) field retrieved from the IP datagram, forwarding the IP datagram to a socks server selected according to one or a plurality of selection parameters, one selection parameter being the application level protocol previously determined." Claim 1. As such, the selection of servers is not merely performed based on proximity preferences as in Colby, but instead if more than one socks server is defined for the value of the TOS field, the IP datagram is forwarded to a socks server selected according to selection parameters, including the application level protocol previously determined. Thus, the selection of servers in Colby is not equivalent to the forwarding of the IP datagram to a selected socks server as included in the claimed invention. Accordingly, Applicant respectfully requests that the Office withdraw its rejection.

With respect to dependent claims, Applicant herein incorporates the arguments presented above with respect to independent claims from which the dependent claims depend. Furthermore, Applicant submits that all dependant claims are allowable based on their own distinct features. Since the cited art does not teach each and every feature of the claimed invention, Applicant respectfully requests withdrawal of this rejection.

B. REJECTION OF CLAIM 4 UNDER 35 U.S.C. §103(a)

With regard to the Office's other arguments regarding dependent claims, Applicant herein incorporates the arguments presented above with respect to independent claims listed above. In addition, Applicant submits that all dependant claims are allowable based on their own distinct

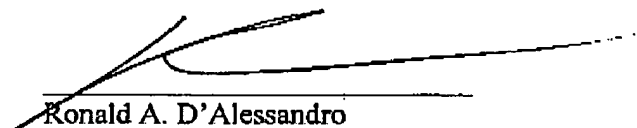
features. However, for brevity, Applicant will forego addressing each of these rejections individually, but reserves the right to do so should it become necessary. Accordingly, Applicant respectfully requests that the Office withdraw its rejection.

VI. CONCLUSION

In light of the above, Applicant respectfully submits that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the number listed below.

Respectfully submitted,

Date: March 25, 2005



Ronald A. D'Alessandro
Reg. No.: 42,456

Hoffman, Warnick & D'Alessandro LLC
Three E-Comm Square
Albany, New York 12207
(518) 449-0044
(518) 449-0047 (fax)